

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

MEMORANDUM

TO: John Robertus

FROM: Rebecca Stewart and Mark Alpert

DATE: MARCH 7, 2003

SUBJECT: ANALYSIS OF SUPPLEMENTAL ENVIRONMENTAL PROJECTS FOR
SOUTH COAST WATER DISTRICT SETTLEMENT PROCEEDINGS

The Regional Board has received five supplemental environmental project (SEP) applications submitted by South Coast Water District in conjunction with the proposed settlement of the assessment of civil liability. The SEP applications were given numbers from 001 through 005 in the order they were received and rated in accordance with criteria established by the State Water Resource Control Board in the Enforcement Policy. The results of the evaluation are provided on Table 1 (attached) and summarized below. The following is an overview of the SEP evaluation process:

SEP NUMBER	PROJECT NAME	RATING	Nexus	
			Geo	Spill
SEP03-001	Community Kelp Restoration Project	65	yes	
SEP03-002	So. Orange CO Watersheds Citizen Monitoring Project	43	yes	yes
SEP03-003	Testing Lab at Shorecliffs Middle School	40	yes	
SEP03-004	Testing Program at Laguna Beach High	40	yes	
SEP03-005	Microbial Source Tracking	36	yes	

Biological/Environmental Assessment Rating

A multidisciplinary team comprised of staff from the Regional Board's Northern Watershed Unit, Water Quality Standards Unit, Marine Waters Unit, Compliance Assurance Unit, and the Watershed Management Coordinator reviewed the proposed projects individually. Upon conclusion of the individual reviews, the group met to establish a group rating. The ratings were conducted using a rating evaluation scoring method used to review all SEP application submitted since 2000. The rating assessment evaluates the potential of a SEP to improve water quality and beneficial uses, the benefits of water quality monitoring, and public education/outreach attributes. The rating also evaluates the clarity of the proposal, project trustee, and funding attributes.

The evaluation has a natural bias toward and therefore scores applications higher that implement a project that directly results in water quality improvement (ie , removal of invasive species from a stream) as compared to a proposed study. In addition, projects that have more than one attribute generally score higher than single attribute projects. These evaluations are totally independent of the enforcement action being considered, do not take into account any nexus with the location or type of violations that occurred, the sources of funding for the projects or the amount of funds that can be allocated.

Nexus

The State Water Resources Control Board's Water Quality Enforcement Policy requires a SEP to have a nexus (connection or link) with the violation(s). To be acceptable a SEP must meet one or more of the following criteria:

1. **Geographic nexus**—A geographic link with the area where the water quality problem or violation occurred.

The South Coast Water District sewage collection system serves the communities of Dana Point and Capistrano Beach, and the portion of southern Orange County encompassing Aliso Creek. Therefore, all 5 SEPs could be considered to meet the geographic nexus criteria.

2. **Spill Type or Violation**—The project should be related to the violation.

The principle nexus is the relationship between the District's failure to develop, implement, and maintain a Sanitary Sewer Overflow Prevention Plan and the prevention of sewage spills. Sewage spills that occurred during the violation period (June 14, 2001 through February 1, 2002) resulted in discharges in the San Juan Creek, Salt Creek, or Dana Point Harbor, or within the watersheds of Dana Point and Capistrano Beach.

Of the applications received only SEP03-002, South Orange County Watersheds Citizen Monitoring Project proposes water quality monitoring in both San Juan Creek and Salt Creek which were directly affected by sewage spills during the violation period. As a result, this project would satisfy the spill nexus requirement. In addition, the funds requested for this project are \$45,000, which is also exactly the amount available for funding.

3. **Beneficial Use Protection**—The project should address protection and improvement in areas where beneficial uses were affected by the violation(s).

Because the assessment of liability is for reporting violations, the SEPs were not reviewed for a nexus with beneficial use protection.

Regional Board Oversight Costs

Cost of Regional Board oversight of an approved SEP should also be considered. Each SEP is required to identify performance measures, which must be evaluated to determine successful completion of the SEP. Presently, staff oversight costs must be taken from the same programs that pay for regulatory oversight such as preparation of waste discharge requirements, monitoring report reviews, inspections, and enforcement. The Enforcement Policy provides that the Regional Board, to audit implementation of the SEP by requiring the discharger to select and hire an independent management company or other appropriate third party, which reports solely to the RWQCB. Alternatively, as a condition of the SEP, the Regional Board may require the discharger to pay the estimated cost for oversight of the SEP. Oversight costs can vary by project. However, the Regional Board estimates that oversight costs generally be approximately 10% of the cost of the project. The settlement agreement before the Regional Board does not contain a provision for cost oversight. Therefore, the Regional Board recommends approving the SEPs that require the least oversight.

Because SEP03-002, South Orange County Watersheds Citizen Monitoring Project proposes to submit water quality monitoring data, this project is likely to have the least oversight to determine if the project was successful.

Coincidentally, the funds requested for this project are \$45,000, which is also exactly the amount available for funding.